#19   PATENT

1-14. (canceled).

15.   (currently amended) An apparatus, comprising:

a processor;

5   a media player;

a program code module comprising code executable by the processor to carry out the

following method steps:

as a media stream is being received from a first server and rendered by the media player,

determining whether the media stream is acceptable according to a given metric;

10   ·   if the media stream is not acceptable, and as the media stream continues to be received,

taking a given action to initiate delivery of the media stream from a second server, wherein the

given action includes the steps of: (a) creating a buffer; (b) receiving from the first server and

caching in the buffer advanced portions of the media stream; (c) issuing a request to the second

server to initiate delivery of the media stream at a given offset; and (d) rendering the advanced

15   portions of the media stream;

receiving the media stream from the second server; and

when the given offset is reached, rendering in the media player the media stream received

from the second server.

20   16.   (previously presented) The apparatus as described in claim 15, wherein the code is

executable by the processor to initiate an instruction to the first server to cease transmission of

the media stream before rendering the advanced portions of the media stream.

17.   (cancelled).

25

18.   (previously presented) The apparatus as described in claim 15, wherein the code is

executable by the processor to match data packets received from the first and second servers such

that the media stream rendered in the media player appears continuous.

30   19.   (cancelled).

- 2 -

#19   PATENT

    20.   (previously presented) The apparatus as described in claim 15 wherein the media stream is not acceptable if it is being thinned by the first server.

    21.   (previously presented) The apparatus as described in claim 15 wherein the media
5   stream is not acceptable if a given indication from the first server is received.

    22.   (previously presented) The apparatus as described in claim 21 wherein the given indication is that the first server will be unavailable.

10   23.   (previously presented) The apparatus as described in claim 15, wherein the code executable by the processor determines that the second server has a response time that differs from a response time of the first server.

    24.   (previously presented) The apparatus as described in claim 15, wherein the code
15   executable by the processor determines whether the media stream is acceptable periodically as the media stream is being delivered.

    25.   (previously presented) The apparatus as described in claim 15, wherein the code executable by the processor records given data associated with receipt of the media stream.
20

    26.   (new) The apparatus as described in claim 15, wherein the advanced portions of the media stream are created by instructing the first server to increase a delivery rate of the media stream or by instructing the media player to decrease a rendering rate of the media stream.

- 3 -